



National Court Reporters Association
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March 4, 2019

Wisconsin Supreme Court
PO Box 1688
Madison, WI 53701-1688

Re: Pending Rule Petition 19-01 Records- Court Reporting

Dear Honorable Justices of the Supreme Court:

As President of the National Court Reporters Association, which represents more than 13,000 members, I am writing today to submit public comments for the pending petition 1901 Records – Court Reporting. While we applaud the efforts of the Wisconsin Supreme Court to address the court reporter shortage in the state, we have concerns about the impact these changes will have on the quality of the record in Wisconsin.

The proposed statutory and rules changes would be amended to allow monitored digital audio recording (DAR) as a regular method of taking the record. We believe that the rule changes suggested in this petition could allow for subpar court records and could have negative consequences for the Wisconsin court system. Court reporters have been ahead of the rest of the legal system in applying technology in the workplace. Reporter-based technologies such as realtime enhance the functioning of the judicial system in both headline trials and everyday depositions. Embracing technology that supports and enhances the efficient operations of the courts is one thing; naive dependence on technology and the elimination of human judgment and wisdom is quite another. Put simply, employing the services of a realtime court reporter in a well-managed courtroom ensures a complete, accurate, secure, and instant record of what was said for immediate use by attorneys and judges. Digital audio recording can't make that guarantee.

NCRA would make the following recommendations to ensure that the quality of the court record in Wisconsin is maintained if these proposals are to be implemented:

- Live reporters should fill available court reporter positions first, and digital audio recording should be utilized only as a fallback solution if and when no court reporter is available.
- DAR equipment should have a designated person who monitors the system and proceedings recorded by the system to ensure that the equipment is working correctly and no testimony is lost, which has been known to happen when utilizing DAR as the primary method of taking the record.



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- DAR transcripts should be assigned to court reporters on a voluntary basis. Recordings created by these platforms often feature garbled, indecipherable language that would otherwise be accurately captured by court reporters in a live setting. Court reporters should not be held responsible for subpar transcripts generated from garbled recordings and should not be forced to transcribe from indecipherable recordings if they elect not to do so.
- Court reporters should not be held responsible for determining confidential information, identifying on/off the record discussions, or for speaker identification in cases where there are multiple speakers. While court reporters are easily able to identify these situations in a live setting and transcribe the proceedings accordingly, the ability to do so is diminished with digital audio recording.
- Court reporters should not certify transcripts from DAR recording as verbatim. Without a court reporter being live and present to capture court testimony, they cannot claim a transcript is verbatim. Certification from DAR recording should state that the transcript was typed to the best of their ability.

We implore the Director of State Courts and the Supreme Court to consider revising the petition to include NCRA's and the Wisconsin Court Reporters Association's (WCRA) recommendations. Adopting these recommendations would ensure that the quality of the record in Wisconsin is maintained, and alleviate the burden that court reporters will endure in working with DAR that is not capable of providing the quality that live reporters consistently generate. If I or the NCRA staff can be of assistance, please contact Government Relations Director Matthew Barusch at mbarusch@ncra.org. Thank you.

Sincerely,

Sue Terry, FAPR, RPR, CRR, CRC

2018/2019 NCRA President